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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,238	06/27/2003	Bradley C. Sammann	02-639	8547
34704	7590	05/03/2005	EXAMINER	
BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510			RODRIGUEZ, WILLIAM H	
			ART UNIT	PAPER NUMBER
			3746	

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/608,238

Applicant(s)

SAMMANN ET AL.

Examiner

William H. Rodriguez

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3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 16-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-14, 16-24, 26 and 27 is/are allowed.
- 6) ☒ Claim(s) 25 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

This office action is in response to the amendment, remarks and terminal disclaimers filed 3/2/05. Since the examiner has applied new grounds of rejection, this office action is being made non-final to afford the applicant the opportunity to respond to the new grounds of rejection.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by **Call (US 3,417,564)**.

Call teaches a turbine engine comprising: a case having an axis; a compressor 14; a turbine 27, 28; a circumferential array of combustion chamber conduits 32, the conduits being downstream of the compressor and upstream of the turbine, the array being supported for continuous rotation relative to the case in a first direction about the axis to cyclically bring each conduit from a charging zone for receiving a charge from upstream to a discharging zone for downstream discharging of products of combustion of said charge; and means 35, 39 for starting the rotation. See particularly **Figures 2, 4**; column 2 lines 28-46; and column 5 lines 24-26, 46-55, 66-68 of **Call**.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Call (US 3,417,564)**.

Call teaches a combustion device comprising: a support structure 30; and a combustor carousel supported by the support structure 30 and rotating relative thereto about an axis and comprising: a plurality of combustion conduits 32 in a circumferential array, each cyclically receiving a charge and discharging combustion products of the charge (see particularly **Figures 2, 4**; column 2 lines 28-46; and column 5 lines 24-26, 46-55, 66-68 of **Call**). **Call** does not teach that the combustion conduits 32 have median cross-sectional areas between 12.9 square centimeters and 51.6 cm square centimeters. However, selection/optimization of the cross-sectional area of **Call**'s combustion conduits 32 within the claimed range was a design choice that was within the level of one of ordinary skilled in the art at the time the invention was made. Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to have selected an appropriate cross-sectional area for **Call**'s conduits based on the size of the engine as well as the desired number of conduits.

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Allowable Subject Matter

5. Claims 1-14, 16-24, 26 and 27 are allowed in view of the terminal disclaimers filed on 3/2/05.

Response to Arguments

6. Applicant's arguments with respect to claims 25 and 28 have been considered but are moot in view of the new ground(s) of rejection.

Contact information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Rodriguez whose telephone number is 571-272-4831. The examiner can normally be reached on Monday-Friday 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy S Thorpe can be reached on 571-272-4444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William H. Rodriguez
Examiner
Art Unit 3746